

apricots that were adulterated in violation of the Food and Drugs Act. They were labeled in part: "Packed for Walter M. Field & Co., San Francisco, Calif., J M New York."

Adulteration was alleged in that the articles consisted in part of filthy, decomposed, and putrid vegetable and animal substances.

On January 26, 1940, the defendant entered a plea of nolo contendere, and the court imposed a fine of \$50.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31028. Adulteration of dried peaches and dried apricots. U. S. v. Ronald R. Mack (Walter M. Field & Co.). Plea of nolo contendere. Fine, \$200. (F. & D. No. 42769. Sample Nos. 37147-D, 37148-D.)

These shipments of dried fruits contained dead insects, larvae and cocoons, insect and rodent excreta, and mold.

On October 25, 1939, the United States attorney for the Northern District of California, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Ronald R. Mack, trading as Walter M. Field & Co., San Francisco, Calif., alleging shipment by said defendant in violation of the Food and Drugs Act, on or about March 21, 1939, from the State of California into the State of New York, of quantities of dried peaches and dried apricots that were adulterated.

The articles were alleged to be adulterated in that they consisted in part of filthy, decomposed, and putrid vegetable and animal substances.

On January 23, 1940, a plea of nolo contendere was entered by the defendant and the court imposed a fine of \$200.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31029. Adulteration of butter. U. S. v. Midwest Dairies, Inc. Plea of guilty. Fine, \$400. (F. & D. No. 42763. Sample Nos. 43309-D, 43788-D, 56060-D, 56145-D, 56148-D, 56154-D.)

The products involved in this shipment contained less than 80 percent by weight of milk fat.

On October 3, 1939, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Midwest Dairies, Inc., trading at Portales, N. Mex., alleging shipment by said defendant in violation of the Food and Drugs Act within the period from on or about April 11 to on or about May 27, 1939, from the State of New Mexico into the State of California of quantities of butter that was adulterated.

Adulteration was alleged in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat as prescribed by the act of March 4, 1923.

On March 16, 1940, a plea of guilty having been entered on behalf of the defendant, the court imposed a fine of \$400.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31030. Adulteration and misbranding of Frute-Ade. U. S. v. Alexander Rosenthal. Plea of guilty. Fine, \$25. (F. & D. No. 39789. Sample Nos. 35070-C to 35076-C, incl.)

These products were labeled to indicate that they derived their fruit characteristics from fruit juices; whereas they consisted of artificially colored acid solutions containing little, if any, fruit juices. With the exception of the lemon, lemon-lime, and orange, they were also artificially flavored. The quantity of contents of the bottles was less than that declared on the label.

On March 2, 1939, the United States attorney for the District of New Jersey, acting upon a report by the Secretary of Agriculture, filed in the district court an information against Alexander Rosenthal, Trenton, N. J., alleging shipment by said defendant in violation of the Food and Drugs Act on or about April 17, 1937, from the State of New Jersey into the State of Pennsylvania, of quantities of various flavored Frute-Ades which were adulterated and misbranded.

The articles were labeled in part: "Frute-Ade * * * Grape [or "Strawberry," "Cherry," "Raspberry," "Lemon," "Lemon-Lime," or "Orange"] Flavor * * * Atlantic Food Packing Co., Trenton, N. J."

The articles were alleged to be adulterated in that artificially colored acid solutions which contained little, if any, of the designated fruits, and which

were artificially colored, and with the exception of the lemon, lemon-lime, and orange were also artificially flavored, had been substituted for Frute-Ade grape, strawberry, cherry, raspberry, lemon, lemon-lime, or orange flavors, namely, beverages which derived their fruit characteristics from juices of the said fruits.

Misbranding was alleged in that the statements, "Frute-Ade * * * drink * * * grape [or "Strawberry," "Cherry," "Raspberry," "Lemon," "Lemon Lime," or "Orange"] flavor" and "2½ fl. oz.," borne on the bottle labels, were false and misleading and were borne on the labels so as to deceive and mislead the purchaser, in that they represented that the articles were beverages which derived their fruit characteristics from juices of the fruits designated, and that the bottles contained 2½ fluid ounces thereof; whereas they contained little, if any, fruit juices, and the bottles contained less than 2½ fluid ounces of the said articles. Misbranding was alleged further in that the articles were offered for sale and sold under the distinctive names of other articles; and in that they were foods in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the packages.

On December 22, 1939, the defendant entered a plea of guilty and the court imposed a fine of \$25.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31031. Adulteration of butter. U. S. v. Spring Valley Butter Co., Inc. Plea of guilty. Fine, \$210. (F. & D. No. 42775. Sample Nos. 57621-D, 57646-D, 57648-D, 57659-D, 57662-D, 57664-D, 57665-D.)

This product was found to be deficient in milk fat.

On November 6, 1939, the United States attorney for the District of Idaho, acting upon a report by the Secretary of Agriculture, filed in the district court an information against the Spring Valley Butter Co., Inc., of Nampa, Idaho, alleging shipment by said company in violation of the Food and Drugs Act, within the period from on or about March 30 to on or about May 27, 1939, from the State of Idaho into the State of California of quantities of butter which was adulterated in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that a product which contained less than 80 percent by weight of milk fat had been substituted for butter, a product which should contain not less than 80 percent by weight of milk fat, as prescribed by the act of March 4, 1923.

On January 30, 1940, a plea of guilty having been entered on behalf of the defendant, a fine of \$210 was imposed.

GROVER B. HILL, *Acting Secretary of Agriculture.*

31032. Misbranding of cottonseed nut cake. U. S. v. James W. Simmons, George A. Simmons, and Tom B. Simmons (Quanah Cotton Oil Co.). Pleas of guilty. Fine, \$100. (F. & D. No. 42736. Sample No. 4156-D.)

This product contained a smaller percentage of protein than was declared on its label.

On July 24, 1939, the United States attorney for the Northern District of Texas, acting upon a report by the Secretary of Agriculture, filed in the district court an information against James W. Simmons, George A. Simmons, and Tom B. Simmons, trading as the Quanah Cotton Oil Co., Quanah, Tex., alleging that on or about October 10, 1938, the said defendants sold and delivered at Quanah, Tex., a quantity of cottonseed nut cake; that at the time of said sale and delivery the defendants gave the purchaser thereof a guaranty that the product was not adulterated or misbranded in violation of the Food and Drugs Act; that on or about October 10, 1938, the said cottonseed nut cake in the identical condition as when so sold and delivered was transported by the purchaser thereof from the State of Texas into the State of Kansas; that the article was misbranded in violation of the Food and Drugs Act; and that by reason of the said transportation, the said guaranty and the aforesaid misbranding, the defendants were amenable to the prosecution, fines, and other penalties which otherwise would attach to the shipper. The article was labeled in part: "43% Protein Cottonseed Cake and Meal—Prime Quality—Manufactured by Quanah Cotton Oil Company, Quanah, Texas."

Misbranding was alleged in that the statement "Protein not less than 43.00%," borne on the label, was false and misleading and was borne on the said label so as to deceive and mislead the purchaser, since the article contained less than 43 percent of protein, namely, not more than 40.06 percent of protein.